

§§ 2607.3–2607.9 [Amended]

4. Sections 2607.3(a) and (c), 2607.4(a) and (c), 2607.5(a), 2607.6(c), 2607.7(b) and (c), and 2607.8(b) and (c) and the introductory text of § 2607.9 are amended by adding “or her” after “his” and after “him” each time either “his” or “him” appears.

5. The second sentence of § 2607.3(b), the second sentence of § 2607.4(b), and the third sentence of § 2607.6(b) are amended by removing “he” and adding, in its place, “the disclosure officer”.

6. Paragraph (d) of § 2607.4 is amended by adding “or she” after “he”.

7. Paragraph (b) of § 2607.5 is amended by removing “his choosing” and adding, in its place, “his or her choosing”; by removing “he shall” and adding, in its place, “the requestor shall”; by removing “he wishes” and adding, in its place, “he or she wishes”; by removing “accompany him” and adding, in its place “accompany him or her”; by removing “his record” and adding, in its place, “the record”; and by removing “to him” and adding, in its place, “to him or her”.

8. Paragraph (d) of § 2607.8 is amended by removing “If an individual requests” and adding, in its place, “To request”; by removing “review, he” and adding, in its place, “review, an individual”; and by removing “Counsel and he” and adding, in its place, “Counsel, who”.

9. Paragraph (a) of § 2607.9 is amended by removing “\$0.10” and adding, in its place, “\$0.15” in the first sentence and by removing “\$1.00” and adding, in its place, “\$1.50” in the second sentence.

10. In § 2607.10, the first paragraph is amended by adding “Security Investigation” after “Personnel” and by removing “that the identity of the source would be held in confidence” both times it appears and adding, in its place, “of confidentiality”; and the second paragraph is amended by removing “for employment” and adding, in its place, “and fitness for PBGC employment, access to information, and security clearances” and by adding “the” before “PBGC”.

Issued in Washington, DC this 8th day of November, 1995.

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 60**

[AD–FRL–5326–9]

Standards of Performance for New Stationary Sources; Small Industrial-Commercial-Institutional Steam Generating Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Today’s proposal would revise the applicability of the sulfur dioxide (SO₂) and particulate matter (PM) emission control requirements of the standards of performance for new, modified, and reconstructed small industrial-commercial-institutional steam generating units (40 CFR part 60, subpart Dc; September 12, 1990, 55 FR 37683) by excluding certain small steam generating units—when conducting combustion research—from the category of small steam generating units that are regulated as new sources (see Clean Air Act section 111(b)(2)). Small steam generating units are units with a maximum design heat input capacity of 29 megawatts (MW) (100 million Btu per hour (Btu/hr)), or less, but greater than or equal to 2.9 MW (10 million Btu/hr). The proposed revisions would encourage the development of air pollution control technology that will ultimately result in reduced air emissions from all steam generating units.

DATES: Comments. Comments must be received on or before January 2, 1996.

Public Hearing. If anyone requests to speak at a public hearing by December 15, 1995, a public hearing will be held on December 22, 1995, beginning at 10:00 a.m. Persons interested in attending the hearing should call Ms. Donna Collins at (919) 541–5578 to verify that a hearing will be held. Assistance will be available for persons with hearing impairments.

Request to Speak at Hearing. Persons wishing to present oral testimony must request to speak at the public hearing by December 15, 1995.

ADDRESSES: Comments. Comments should be submitted in duplicate to: U.S. Environmental Protection Agency, The Air and Radiation Docket & Information Center, 401 M Street, S.W., Room 1500, Mail Code 6102, Washington, DC 20460. Attention Docket Number A–86–02.

Public Hearing. If anyone requests a public hearing, it will be held at the EPA’s Office of Administration

Auditorium, Research Triangle Park, North Carolina. Persons interested in attending the hearing or wishing to present oral testimony, should notify Ms. Donna Collins, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–5578.

Docket. Docket Number A–86–02, containing information used in developing the original standards, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at the EPA Air and Radiation Docket and Information Center, Room 1500, First Floor, Waterside Mall, 401 M Street, S.W., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Copland (919) 541–5265 or Mr. Fred Porter (919) 541–5251, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION: The revisions to the applicability of the SO₂ and PM emission control requirements of 40 CFR Part 60, Subpart Dc are being proposed pursuant to a settlement agreement that would resolve litigation in the case of *Babcock and Wilcox Company v. U.S. EPA*, No. 90–1509 (D.C.Cir.). Notice of the proposed settlement was published in the Federal Register on April 4, 1994 (59 FR 15728) in accordance with section 113(g) of the Clean Air Act. There was only one comment and it supported the proposed settlement.

Final adoption of today’s proposal, which solicits comments on the appropriateness of the proposed revisions to the applicability of the SO₂ and PM emission control requirements of 40 CFR Part 60, Subpart Dc, is contingent upon EPA’s review of any comments submitted in response to this notice. As discussed below, today’s proposal is intended to revise the applicability requirements primarily for a small steam generating unit operated by the Babcock and Wilcox Company. This steam generating unit is occasionally used for combustion research to evaluate the performance of and to develop unproven combustion technologies. The applicability requirements would be revised, however, to apply to any small steam generating unit used for research purposes which operates in a manner similar to the unit operated by the Babcock and Wilcox Company. There may be other small steam generating

units also used to evaluate the performance of and to develop unproven combustion technologies and EPA solicits comments on both the merits and means of extending these revised applicability requirements to these units.

The Babcock and Wilcox Company challenged the New Source Performance Standards' emission control requirements for small-scale, intermittently-operated steam generating research units, because such steam generating units are often equipped with experimental, and as yet unproven, air pollution control technology that may not consistently meet the required standards of performance. Babcock & Wilcox Company, therefore, maintains that compliance with the standards of performance when conducting combustion research (that is used to evaluate the performance of and to develop unproven combustion technologies) would create serious start up and shut down problems during test runs and would hinder the purpose of the tests of obtaining useful data within normal operating ranges. The Babcock and Wilcox Company, Research & Development Division, conducts research, development, experimentation, and testing of small-scale burners, boilers, processes, and special equipment arrangements in combustion devices for the purpose of producing data and information necessary to evaluate the performance of and to develop unproven combustion technologies. The data and information are used by The Babcock and Wilcox Company, by the EPA, the Department of Energy, and others to, among other things, ascertain the technological achievability of air pollution emission control standards.

EPA initially rejected The Babcock and Wilcox Company's request—in its comments to the June 9, 1989 proposed standards of performance (54 FR 24792)—for an exemption for small steam generating units conducting combustion research, because EPA's research showed that the impacts of the promulgated standards, including the allowable emissions, potential emission reductions and compliance costs, were reasonable for intermittently or infrequently operated steam generating units, irrespective of whether such units were used for combustion research.

Nevertheless, EPA has agreed to revise the applicability of the SO₂ and PM emission control requirements of 40 CFR Part 60, Subpart Dc because of the limited potential impact of combustion research on the environment: Babcock & Wilcox Company, the petitioner which

requested the revision of the applicability of the standards of performance, operates a single small steam generating unit for research purposes, which is used for combustion research less than five percent of its operating time. Significantly, Babcock and Wilcox Company also does not use the energy that the steam generating unit produces during periods of combustion research for any other purpose (such as space heating, process heating, electric generation, etc.). Accordingly, in order to minimize the potential for inappropriate claims of combustion research (potentially undermining EPA's ability to enforce the standards of performance for small steam generating units), EPA has conditioned today's proposed exclusion of certain limited combustion research activities from the standards of performance on the requirement that a steam generating unit not use the energy produced during combustion research for other purposes. No other members of the regulated community have commented on or challenged—at the time of the June 9, 1989 proposed rule or the September 12, 1990 final rule—the applicability of the standards of performance to combustion research (that is used to evaluate the performance of and to develop unproven combustion technologies) that may also use the energy produced for other purposes.

Economic and Regulatory Impacts

Today's proposal will impose no additional costs on the regulated community or the national economy. It would reduce the costs of compliance for some small steam generating units when conducting combustion research by not requiring them to comply with the standards of performance for new, modified, and reconstructed small industrial-commercial-institutional steam generating units. Accordingly, EPA has determined that today's proposal: (1) Does not constitute a "major rule" under Executive Order 12291 (the proposal would not result in any increase in costs or prices and would not disrupt market competition), (2) does not constitute a substantial revision that would require an economic impact assessment pursuant to section 317 of the Clean Air Act, (3) does not constitute a Federal mandate under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, for State, local, or tribal governments or the private sector, (4) does not contain regulatory requirements that might significantly or uniquely affect small governments under Title II of UMRA, and (5) would not affect the public reporting burden

for the collection of information required, in compliance with the Paperwork Reduction Act of 1980, under the new source performance standards for small steam generating units.

Pursuant to 5 U.S.C. 605(b), the Administrator certifies that these revisions would not have a significant impact on a substantial number of small entities. Not only would today's proposal reduce the regulatory burden on the small steam generating units source category, but it has previously been determined that even without today's proposed revisions the standards would not affect a substantial number of small entities (55 FR 37682, September 12, 1990).

List of Subjects in 40 CFR Part 60

Environmental protection, Air pollution control, Intergovernmental relations, reporting and recordkeeping requirements.

Dated October 31, 1995.

Carol M. Browner,
Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is proposed to be amended as set forth below.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7411, 7414, and 7601(a).

2. Section 60.40c is amended by revising paragraph (a) and adding paragraphs (c) and (d) as follows:

§ 60.40c Applicability and delegation of authority.

(a) Except as provided in paragraph (d) of this section, the affected facility to which this subpart applies is each steam generating unit for which construction, modification, or reconstruction is commenced after June 9, 1989 and that has a maximum design heat input capacity of 29 megawatts (MW) (100 million Btu per hour (Btu/hr)) or less, but greater than or equal to 2.9 MW (10 million Btu/hr).

* * * * *

(c) Steam generating units which meet the applicability requirements in paragraph (a) of this section are not subject to the sulfur dioxide (SO₂) or particulate matter (PM) emission limits, performance testing requirements, or monitoring requirements under this subpart (§§ 60.42c, 60.43c, 60.44c, 60.45c, 60.46c, or 60.47c) during

periods of combustion research, as defined in § 60.41c.

(d) Any temporary change to an existing steam generating unit for the purpose of conducting combustion research is not considered a modification under § 60.14.

3. Section 60.41c is amended by adding the following definition in alphabetical order:

§ 60.41c Definitions.

* * * * *

Combustion Research means the experimental firing of any fuel or combination of fuels in a steam generating unit for the purpose of conducting research and development of more efficient combustion or more effective prevention or control of air pollutant emissions from combustion, provided that, during these periods of research and development, the heat generated is not used for any purpose other than preheating combustion air for use by that steam generating unit (i.e., the heat generated is released to the atmosphere without being used for space heating, process heating, driving pumps, preheating combustion air for other units, generating electricity, or any other purpose).

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[FR Doc. 95-28187 Filed 11-14-95; 8:45 am]

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40 CFR Part 180

[PP 2E4037 and 5E4437/P635; FRL-4983-3]

RIN 2070-AC18

1-[[2-(2,4-Dichlorophenyl)-4-Propyl-1,3-Dioxolan-2-yl]Methyl]-1H-1,2,4-Triazole; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to establish tolerances for residues of the fungicide 1-[[2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl]methyl]-1H-1,2,4-triazole (also called propiconazole) and its metabolites determined as 2,4-dichlorobenzoic acid and expressed as parent compound in or on the raw agricultural commodities mint tops (leaves and stems) at 0.3 part per million (ppm) and mushrooms at 0.1 ppm. The Interregional Research Project No. 4 (IR-4) submitted petitions under the Federal Food, Drug and Cosmetic Act (FFDCA) requesting that EPA establish maximum permissible levels for residues of propiconazole in or on the commodities.

DATES: Comments, identified by the document control number [PP 2E4037 and 5E4437/P635], must be received on or before December 15, 1995.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Comments and data may also be submitted to OPP by sending electronic mail (e-mail) to:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by docket numbers [PP 2E4037 and 5E4437/P635]. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in the **SUPPLEMENTARY INFORMATION** section of this document.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information." CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt L. Jamerson, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Sixth Floor, Crystal Station #1, 2800 Jefferson Davis Hwy., Arlington, VA 22202, (703)-308-8783; e-mail: jamerson.hoyt@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903,

has submitted to EPA pesticide petitions, PP 2E4037 and PP 5E4437, on behalf of the named Agricultural Experiment Stations. The petitions request that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e), amend 40 CFR 180.434 by establishing tolerances for residues of 1-[[2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl]methyl]-1H-1,2,4-triazole and its metabolites determined as 2,4-dichlorobenzoic acid and expressed as parent compound in or on certain raw agricultural commodities as follows:

1. *PP 2E4037.* Petition submitted on behalf of the Agricultural Experiment Station of Oregon proposing a tolerance for mint tops (leaves and stems) at 0.3 ppm. The petitioner proposed that use of propiconazole on mint be limited to mint production areas west of the Cascade Mountains based on the geographical representation of the residue data submitted. Additional residue data will be required to expand the area of usage. Persons seeking broader registration should contact the Agency's Registration Division at the address provided above.

2. *PP 5E4437.* Petition submitted on behalf of the Agricultural Experiment Station of Pennsylvania proposing a tolerance for mushrooms at 0.1 ppm.

The scientific data submitted in the petitions and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances include:

1. A 1-year feeding study with dogs, which were fed diets containing 0, 5, 50, or 250 ppm, with a no-observed-effect level (NOEL) of 50 ppm (equivalent to 1.25 mg/kg/day). Mild irritation of stomach mucosa was observed at the 250-ppm dose level.

2. A developmental toxicity study with rabbits, which were given gavage doses of 0, 30, 90, or 180 mg/kg/day, with no evidence of maternal or developmental toxicity observed under the conditions of the study.

3. A second developmental toxicity study in rabbits, which were given gavage doses of 0, 100, 250, or 400 mg/kg/day on gestation days 7 through 19, with no developmental toxicity observed under the conditions of the study. The NOEL for maternal toxicity for this study is established at 100 mg/kg/day based on decreased food consumption, weight gain, and an increase in the number of resorptions at the higher dose levels.

4. A developmental toxicity study with rats, which were given gavage doses of 0, 30, 100, or 300 mg/kg/day, with no developmental toxicity observed under the conditions of the